

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:00-CV-703-F2

NOV 26 2003  
DAVID CLERK  
US DISTRICT COURT  
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FILED  
CLERK

NORTH CAROLINA STATE )  
UNIVERSITY and CREE, INC., )  
Plaintiffs, )  
 )  
v. )  
 )  
NICHIA CORPORATION and )  
NICHIA AMERICA CORPORATION, )  
Defendants. )

O R D E R

NICHIA CORPORATION and )  
NICHIA AMERICA CORPORATION, )  
Counterclaimants, )  
 )  
v. )  
 )  
NORTH CAROLINA STATE )  
UNIVERSITY; CREE, INC.; and )  
SHUJI NAKAMURA, )  
Counterclaim- )  
defendants. )

The Clerk of Court is DIRECTED to file and docket the November 20, 2003, letter addressed to the undersigned from James D. Myers of Myers Bigel Sibley & Sajovec, P.A., and copied to all counsel of record, as a document of record in this case.

SO ORDERED.

This the 26 day of November, 2003.

  
\_\_\_\_\_  
JAMES C. FOX  
Senior United States District Judge

*Judge / Library*

**MYERS BIGEL SIBLEY & SAVAGE, P.A.**

**PATENT LAWYERS**

Jarett K. Abramson	Robert N. Crouse	Robert M. Meeks	F. Michael Sajovec
D. Randal Ayers	Robert W. Glatz	Mary L. Miller, Ph.D.* <sup>2</sup>	Grant J. Scott
David D. Beatty	Scott C. Hatfield	D. Scott Moore	Kenneth D. Sibley
Mitchell S. Bigel	Devin R. Jensen	James D. Myers	Elizabeth A. Stanek
Needham J. Boddie, II	Laura M. Kelley	Timothy J. O'Sullivan	Richard P. Vitek
Lynne A. Borchers* <sup>1</sup>	Shawna C. Lemon, Ph.D.	David K. Purks	Karen L. Wade, Ph.D.* <sup>3</sup>
James R. Cannon	Karen A. Magri, Ph.D.	Julie H. Richardson	

November 20, 2003

The Honorable James C. Fox  
United States District Court Judge  
Alton-Lennon Federal Building  
2 Princess Street, Rm. 213  
Wilmington, NC 28401

**VIA FEDEX**

Re: *North Carolina State University and Cree, Inc. v. Nichia Corporation and Nichia America Corporation; Civil Action No. 5:00-CV-703-F(2)*

Dear Judge Fox:

Pursuant to this Court's Order of January 29, 2003, I am writing to advise the Court that the Grievance Committee of the North Carolina State Bar has dismissed the grievance that Nichia's counsel filed against six of Cree's counsel on March 8, 2002. A copy of this Court's January 29, 2003 Order is attached as Ex. A to this letter, and a copy of the notification letter from the Grievance Committee indicating the grievance has been dismissed is attached as Ex. B.

Respectfully submitted,

*James D. Myers / DRA*  
James D. Myers

cc: Robert W. Johnson, Esq. (via FEDEX)  
Fay E. Morisseau, Esq. (via FEDEX)  
Jack Q. Lever, Esq. (via FEDEX)  
David C. Radulescu, Esq. (via FEDEX)  
Matthew D. Powers, Esq. (via FEDEX)  
William J. McLean, Esq. (via FEDEX)  
John L. Sarratt, Esq. (via FEDEX)  
Thomas A. Farr, Esq. (via FEDEX)  
Mark A. Grant, Esq. (via FEDEX)  
David W. Long, Esq. (via FEDEX)  
William W. Taylor, Esq. (via FEDEX)  
Terrance D. Friedman, Esq. (via FEDEX)

**RECEIVED**  
NOV 21 2003

JAMES C. FOX  
US DISTRICT JUDGE  
E. DIST. N. CAROLINA  
WILMINGTON, NC

**FILED**

JAN 29 2003

DAVID W. DANIEL, CLERK  
U.S. DISTRICT COURT  
E. DIST. NO. CAR.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:00-CV-703-F2

NORTH CAROLINA STATE )  
UNIVERSITY and CREE, INC., )  
Plaintiffs, )  
v. )  
NICHIA CORPORATION and )  
NICHIA AMERICA CORPORATION, )  
Defendants. )

ORDER

NICHIA CORPORATION and )  
NICHIA AMERICA CORPORATION, )  
Counterclaimants, )  
v. )  
NORTH CAROLINA STATE )  
UNIVERSITY; CREE, INC.; and )  
SHUJI NAKAMURA, )  
Counterclaim- )  
defendants. )

In response to this court's January 13, 2003 letter, Nichia's Local Counsel, Robert W. Johnson has advised the undersigned by letter dated January 28, 2003 that as of the January 2003 meeting of the North Carolina State Bar, the Grievance Committee has not yet considered the complaint filed by Nichia on March 8, 2002. Mr. Johnson, who coincidentally is a member of the State Bar Grievance Committee, advises that he "understand[s] that there is a procedure where the chairman, perhaps with the concurrence of subcommittee chairmen and staff attorney, can dismiss a complaint

rather than refer it to a subcommittee. I would have no way of knowing whether this has occurred or whether the matter is still under investigation."

Counsel for Nichia or Mr. Johnson in his capacity as Nichia's Local Counsel, are DIRECTED immediately to make appropriate inquiry of the North Carolina State Bar to determine whether the State Bar Grievance Committee or a subcommittee thereof has dismissed Nichia's March 8, 2002 complaint, or whether such complaint remains pending for consideration, and to report the Bar's response to the undersigned in writing. As the parties are aware -- and are free to disclose to the State Bar -- this court is awaiting the outcome of that organization's consideration and disposition of Nichia's complaint in order to decide how to address Nichia's allegations against Cree's counsel advanced in this litigation pursuant to Rule 11, FED. R. CIV. P. If the State Bar has concluded that Nichia's complaint is meritless and has dismissed it, then this court should be so advised so that pending matters may proceed in this forum.

SO ORDERED.

This the 29<sup>X</sup> day of January, 2003.

  
\_\_\_\_\_  
JAMES C. FOX  
Senior United States District Judge



## The North Carolina State Bar

GRIEVANCE COMMITTEE

Sharon B. Alexander  
Chair

November 5, 2003

Ms. Catherine B. Arrowood  
Parker Poe Adams & Bernstein LLP  
PO Box 389  
Raleigh, North Carolina 27602-0389

Re: Grievances against Messrs. Myers, Ayers, Cox, Powers, Antonelli, and Radelescu  
Our file nos.: 02G0509, 02G0510, 02G0511, 02G0512, 02G0513, 02G0514

Dear Ms. Arrowood:

As counsel for the above named respondents in a grievance before the Grievance Committee of the North Carolina State Bar, I wish to inform you that the Committee formally considered this matter at its regular quarterly meeting on 23 October 2003. The Committee determined that there was not probable cause to believe that the Rules of Professional Conduct were violated by any of your clients and dismissed the grievance. However, the Committee concluded that there was a good faith basis for the filing of the grievance and wished to make that known to your clients.

If you have questions about this matter you may contact David R. Johnson, the staff attorney assigned to the case. Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sharon B. Alexander".

Sharon B. Alexander, Chair  
Grievance Committee

SBA/lm